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EXAMINER

VAN DOREN, BETH

| ART UNIT | PAPER NUMBER |
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3623

DATE MAILED: 07/31/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,043

Applicant(s)

BRINKERHOFF, RICHARD

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/02/2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 18-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final, first office action on the merits. A restriction requirement resulted in claims 14-17 and 41 being withdrawn from further consideration by the examiner. Claims 1-13 and 18-40 are pending.

Election/Restrictions

2. Restriction to on of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13 and 18-40, drawn to a method for scheduling the distribution of item review requests, classified in class 705, subclass 10.
- II. Claims 14-17, drawn to a method for profiling a consumer based on a review and then targeting and making recommendations to said consumer using this built profile, classified in class 705, subclass 14.
- III. Claim 41, drawn to a method of presenting item reviews to potential electronic shoppers, classified in class 705, subclass 27.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has a separate utility such as scheduling the distribution of review request to purchasers who use an item (i.e. no profile is necessary for this distribution). Invention II has a separate utility in the instant case, such as profiling a user based on the scores he supplies and then using this information to make a recommendation to the user. Furthermore, in the instant case, invention III has the separate utility of receiving and presenting

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assessed item reviews regardless of the method used to attain said reviews or the utility of these reviews to the parties submitting them. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

5. A telephone call was placed to Mr. Ronald Schoenbaum on 07/15/02 to request an oral election to the above restriction requirement. During a telephone the conversation a provisional election was made without traverse to prosecute the invention of Group I, claims 1-13 and 18-40. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-17 and 41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

6. Claims 26 and 37 are objected to because of the following informalities:

i. omitted word. Claim 26, page 19, line 15, recites the limitation “where the inference based at least on a consumer survey”. This limitation should read --where the inference is based at least on a consumer survey--.

ii. typographical error. Claim 37, page 20, lines 20, recites the limitation “is based at least is part”. This limitation should read --is based at least in part--.

Appropriate correction is required in both instances.

7. Claim 38 is objected to due to the form of the claims. Claim 38 contains what appear to be two sentences, each beginning with a capital letter and ending with a period. See MPEP 608.01(m), which states that each claim should begin with a capital letter and end with a period.

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Periods may not be used elsewhere in the claims except for abbreviations. Appropriate correction is required.

8. Claim 30 is objected to because it is unclear as to whether or not a car can be purchased via an electronic catalog. Clarification is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1, 12, 13, 24, 26, 27, 28, 30, and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 1 is rejected because the recited steps of the method do not accomplish the stated purpose of the method set forth in preamble of the claim. The preamble recites the limitation "A method of encouraging customers to provide reviews of purchased items", however it is unclear how the steps that follow, which outline the obtaining of names of customers, the transmitting and receiving of reviews, and the presenting said reviews to other customers, accomplish the claimed function of "encouraging customers". Clarification is required.

12. Claim 12, line 4, recites the limitation "e-mail address provided by the customer". Claim 12, line 5, recites the limitation "forwarding the customer review to the e-mail address".

Looking to claim 1 for antecedent basis for the term "the customer", claim 1 recites "what date the customer" in line 6, "electronically transmitting to the customer" in line 8, "receiving the customer review" in line 10. However, claim also recites "presenting the review to another customer". In claim 12 it is unclear which customer is being referred to and what the recited

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method steps are accomplishing. For examination purposes, "the customer" of claim 12 has been construed as the first customer, said customer donating an email address and being forwarded a review for completion. Clarification is required.

13. Claim 13, line 7, recites the limitation "the estimated time period is based at least in part on the length of the book". The scope of this limitation is indefinite because it is unclear as to what is encompassed by the phrase "at least in part". Appropriate correction is required.

14. Claims 24, 26, 27, and 36 also recite the phrase "at least in part" and, therefore, are indefinite for the same reasons. Appropriate corrections are required.

15. Claim 28, lines 19-20, recites the limitation "presenting to the customer a list of items purchased by the customer to the customer". This limitation is confusing as written and it is unclear as to what the claimed limitation is accomplishing. For examination purposes, the limitation has been construed as --presenting a list of items purchased by the customer to the customer--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-4, 7, 11, 13, 18-21, 24, 26, 27, 30-37, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172).

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18. . As per claim 1, Klingman teaches a method of encouraging customers to provide reviews of purchased items, the method comprising:

receiving customer orders for an item purchased from an electronic catalog (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving customer orders for an item purchased from an electronic catalog. These customer orders are used to identify the customers who may rate a product as well as the specific product they may rate);

after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item);

electronically transmitting to the customer a message requesting the customer to provide a review of the item (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 4-10, which discloses electronically transmitting the customer a message requesting the review of the item that was purchased by said customer);

receiving the customer review electronically (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of rating information from the customer); and

presenting the review to another customer interested in the item (See column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review related to said item).

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However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose estimating by what date the customer will have at least initially evaluated the item and transmitting a review on or after the estimated date.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

19. As per claim 2, Klingman discloses a method wherein the review is a numerical rating (See column 12, lines 22-24, column 13, lines 19-25, which disclose the review as a numerical rating).

20. As per claim 3, Klingman teaches a method wherein the review includes at least one of a textual review and a numerical rating (See column 12, lines 18-30, and column 13, lines 19-15 and 40-49, which discloses a dynamic rating with the ability to include textual, numerical, and graphical reviews).

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21. As per claim 4, Klingman discloses a method further comprising verifying that the review is from a purchaser of the reviewed item, and in conjunction with presenting the review to other customers, indicating that the review comes from a purchaser of the reviewed item (See column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying the identity of the reviewer before allowing the reviewer to enter a score. See also column 5, lines 3-6, column 10, lines 58-65, which discloses verifying that the review is from a purchaser who has not yet rated the item (thus not allowing a user to provide more than one rating). Once the reviews are entered, the reviews are presented to other customers in the context that the review comes from a purchaser of the reviewed item. See column 9, lines 30-35 and 41-46).

22. As per claim 7, Klingman teaches a method wherein the review request is presented on a Web page (See column 10, lines 11-12, 40-41 and 66-67, and column 7, lines 1 and 4-15, wherein the review request is presented on a web page).

23. As per claim 11, Klingman discloses a method further comprising requesting the customer to review an item and the customer using the item review as a means for reflecting on the quality of the seller (See column 1, lines 36-47, wherein the item's review speaks about the quality of the seller of the item. See also column 9, lines 44-46, which discusses reviewing an item to punish the seller of said item for poor quality).

However, Klingman does not expressly disclose the customer specifically entering a review about an item seller.

It would have been obvious to one of ordinary skill in the art at the time of the invention to directly rate an item seller instead of using the rating of an item to reflect the customer's

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opinion of the seller of said item because doing so would streamline the method and make the scores easier to understand by showing the feelings of the customer about the seller in a less convoluted manner.

24. As per claim 13, Klingman teaches a method where the item is a book (See column 12, lines 33-42, which discusses rating a product which is a work of fiction by Shakespeare); and after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses a book and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose estimating a time period based at least in part on the length of the book.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A book, as disclosed by Klingman, is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use

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(See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use a book is to read it and the time it takes to read the book depends on factors such as its length, it would have been obvious to use these feature to estimate usage.

25. As per claim 18, Klingman teaches a method of requesting a review of a purchased item, the method comprising:

receiving customer orders for an item purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving customer orders for an item purchased from an electronic catalog. Identifications about these orders are stored in a table);

inferring that the customer has evaluated the item after a time period of use (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that after a period of use the customer has evaluated the quality of a purchased item);

providing a review request in response to at least the inference, wherein the review request requests that the customer provide a review of the purchased item (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 4-10, which disclose providing a review request (after verifying that the customer has previously purchased the item, thus the system knows that the customer has had the opportunity to use the item and come to an opinion about its quality), said review request asks the customer to provide feedback (a review) about their impression of the item); and

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receiving the review (See column 4, lines 20-25 and 55-62, column 10, lines 40-41, and column 11, lines 9-18, which describes the electronic receipt of rating information from the customer).

However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose inferring when the customer has evaluated the item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to infer when a customer has evaluated an item previous to providing said customer with a review because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

26. As per claim 19, Klingman disclose a method further comprising verifying that the received review is from a customer that ordered the item (See column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying the identity of the reviewer before allowing the reviewer to enter a score. See also column 5, lines 3-6, column 10, lines 58-65, which discloses

verifying that the review is from a purchaser who has not yet rated the item (thus not allowing a user to provide more than one rating)).

27. As per claim 20, Klingman teaches a method of presenting the received review to other customers in conjunction with an indication that the review is from a purchaser of the item (Once the reviews are entered, the reviews are presented to other customers in the context that the review comes from a purchaser of the reviewed item. See column 9, lines 30-35 and 41-46. See also column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose presenting a customer interested in said item with a review by a purchaser of said item).

28. As per claim 21, Klingman teaches a method where the received review is provided to other customers (See column 5, lines 56-59, column 8, lines 19-27 and 33-38, column 20, lines 6-9, and column 14, lines 27-30, which disclose providing a received review to other customers).

29. As per claim 24, Klingman disclose a method where the ability to rate an item is based on a time period of use after which the customer will be able to form an opinion about said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss that after a period of use the customer has evaluated the quality of a purchased item);

However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose an inference about when the customer has evaluated an item being based on an estimation of how long it will take to evaluate the purchased item.

It would have been obvious to one of ordinary skill in the art at the time of the invention to infer through estimation the amount of time it would take a customer to evaluate an item

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because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

30. As per claim 26, Klingman discloses a method where a period of use of a purchased item is needed for a customer to come to an opinion about the quality of the purchased item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item); and

an item purchased can be a book (See column 12, lines 35-42).

However, Klingman does not expressly disclose using a consumer survey to determine how long it takes consumers to read books and using this to make an inference.

It would have been obvious to one of ordinary skill in the art at the time of the invention to make an inference about the amount of time needed to use a book in order to form an opinion based on a consumer survey about the length of time it takes consumers to read books because doing so would provide the estimator with more accurate information with which to base his/her estimations. Furthermore, consumer surveys are old and well known in the art.

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31. As per claim 27, Klingman discloses a method where a period of use of a purchased item is needed for a customer to come to an opinion about the quality of the purchased item (See column 8, lines 22-25, and column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item); and

having a customer enter information into an order form (See column 14, lines 41-46).

However, Klingman does not expressly disclose making inferences on needed usage times based on the customer ordering the new item.

It would have been obvious to one of ordinary skill in the art to make an inference about the amount of time needed to use an item based on the consumer using said item because taking the consumer's specific attributes into consideration would increase the accuracy of the inference and therefore the accuracy of the scores provided. For example, some people read books slower than other people and so it would take them a longer usage period to evaluate the item.

32. As per claim 30, Klingman teaches a method where the item is purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose an item being purchased by a customer); and

after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses the purchase of an item and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item as a car and estimating a time period based at least in part on the first amount driven.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A car is a purchased item. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use a car is to drive it and the time it takes to evaluate the car is dependant on the number of miles driven, it would have been obvious to use this feature to estimate usage.

33. As per claim 31, Klingman teaches a method where the item is purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose an item being purchased by a customer); and after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using

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an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses the purchase of an item and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item as a video and estimating a time period based at least in part on the customer completing the video.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A video is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product.

Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use a video is to watch it, it would have been obvious to wait until a time period at which a customer would have viewed the video before eliciting their opinion.

34. As per claim 32, Klingman teaches a method where the item is purchased (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose an item being purchased by a customer); and

after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses the purchase of an item and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose the item as an audio recording and estimating a time period based at least in part on the customer listening the audio recording.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. An audio recording is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common way to use an audio recording is to listen to it, it would have been obvious to wait until a time period at which a customer would have listened to the audio recording before eliciting his/her opinion.

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35. As per claim 33, Klingman teaches a method where the item is a book (See column 12, lines 33-42, which discusses rating a product which is a work of fiction by Shakespeare); and after a period of use of said purchased item, assuming a customer has come to an opinion on the quality of the purchased item and allowing said customer to rate said item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discusses using an item and, based on the usage over a period of time, forming an opinion about the quality of said item).

However, while Klingman discloses a book and a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose estimating a time period based at least in part on the type of the book.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item after the customer had had enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she is rating. A book, as disclosed by Klingman, is an item purchased electronically. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage). Since it is old and well known that a common

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way to use a book is to read it and the time it takes to read the book depends on factors such as its type, it would have been obvious to use these feature to estimate usage.

36. As per claim 34, Klingman teaches a method where the review request is provided to a recipient who is the user of the product (See column 9, lines 41-46). However, Klingman does not expressly disclose that the item is a gift for a recipient.

It would have been obvious to one of ordinary skill in the art at the time of the invention to supply the review request to the user of the product rather than the purchaser of the product because it would increase the accuracy and validity of the supplied evaluation information. The purchaser, not the recipient, would be the one using the item and able to evaluate its quality.

37. As per claim 35, Klingman disclose a method where the review includes at least one of a rating and a textual review (See column 12, lines 18-30, and column 13, lines 19-15 and 40-49, which discloses a dynamic rating with the ability to include textual, numerical, and graphical reviews).

38. As per claim 36, Klingman teaches a method of requesting a review of a purchased item, the method comprising:

receiving a customer order for an item purchased from an electronic catalog (See column 6, lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, all of which disclose receiving a customer order for an item purchased from an electronic catalog); and

providing an item review request after a period of use of said purchased item by the purchasing customer (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss using an item and, based on said usage after a period of time, forming

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an opinion about the quality of a product. A customer is provided a review request after purchase. See column 4, lines 20-25 and 55-62, column 10, line 40-41, and column 11, lines 4-10).

However, while Klingman discloses a period of use before evaluating an item (see column 9, lines 41-46), Klingman does not expressly disclose selecting a time to request a review where the time is selected at least in part on an estimated evaluation period or providing the review at this specifically selected time.

It would have been obvious to one of ordinary skill in the art at the time of the invention to send a customer an evaluation to rate an item at a selected a time, this selected time estimated as enough time to use the item because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the product he/she was rating. It is old and notoriously well known that a customer must first use an item before being able to form an opinion about the quality of said product. Furthermore, it is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about said purchase/service based on a period of use (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

39. As per claim 37, Klingman teaches a method further comprising providing the customer a request to review an item associated with the electronic catalog, the review of the item serving as a measure about the seller of said item (See column 1, lines 36-47, wherein the item's review speaks about the quality of the seller of the item. See also column 9, lines 44-46, which discusses reviewing an item to punish the seller of said item for poor quality. See also column 6,

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lines 1-10 and 35-39, column 48-51 and 61-64, column 11, lines 4-18, and column 14, lines 11-12, 22-24, 27-30, and 41-46, which disclose the item being purchased via an electronic catalog).

However, Klingman does not expressly disclose directly reviewing an item seller or the timing of the request being based at least in part on the selected time.

It would have been obvious to one of ordinary skill in the art at the time of the invention to directly rate an item seller instead of rating an item of the seller to reflect the customer's opinion of the seller because doing so would streamline the method and make the scores easier to understand by showing the feelings of the customer about the seller in a less convoluted manner.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to give the customer an evaluation period before rating the seller, the evaluation period estimated as enough time to interact with the item and seller, because doing so would increase the accuracy of the reviews provided by the customers by ensuring that the customer has ample knowledge about the seller he/she was rating. It is old and well known that companies, such as J.D. Power and Associates, provide follow-up evaluations at estimated time intervals after a purchase/service to ascertain an opinion about the seller of said purchase/service based on a period of time (See Sheff, page 3, wherein surveys are sent in 90 day, one year, or five year periods based on J.D. Power and Associates estimates of usage).

40. As per claim 40, Klingman teaches a method wherein a customer comes to an opinion about the quality of the purchased item after the purchase and a period of using said purchased item (See column 8, lines 22-25, column 9, lines 9-13 and 41-46, and column 20, lines 55-59, which discuss using an item and, based on said usage after a period of time, forming an opinion

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about the quality of a product). However, Klingman does not expressly teach that this evaluation period varies from a first item to a second item.

It would have been obvious to one of ordinary skill in the art at the time of the invention that when a evaluation period is estimated for a first item and an evaluation period is estimated for a second item, these evaluations period will vary because the amount of time needed to use an item enough to render an opinion is dependant on the item and its use. For example, it would obviously take longer to evaluate a car than a 60-minute audio recording. By accounting for these differences, the integrity of the scores in each instance is maximized.

41. Claims 5 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of Hiam (*Marketing for Dummies*).

42. As per claim 5, Klingman does not expressly disclose offering the customer a reward in exchange for the customer providing a review.

Hiam teaches offering the customer a reward in exchange for the customer providing a review (See page 100-101, which discloses offering a consumer something in return for answering a survey/review, such as a coupon, an entry into a contest, etc.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to offer customers an incentive such as a reward for filling out a provided survey/review because doing so would increase the response rate of the customers by making responding to the review more appealing and pleasurable.

43. As per claim 29, Klingman does not expressly disclose offering the customer an incentive to provide the item review.

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Hiam teaches offering the customer an incentive in exchange for the customer providing an item review (See page 100-101, which discloses offering a consumer something in return for answering a survey/review, such as a coupon, an entry into a contest, etc.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to offer customers an incentive such as a reward for filling out a provided survey/review because doing so would increase the response rate of the customers by making responding to the review more appealing and pleasurable.

44. Claims 6, 8, 9, 12, 25, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of InstantSurvey (*NetReflector*).

The following references explain the different aspects of InstantSurvey and are considered as one reference:

- i. Article "A few well-placed questions" from Inc (referred to herein as reference A)
- ii. Article "NetReflector's www.InstantSurvey.com goes live today" from Business Wire (referred to herein as reference B).
- iii. Article "Instant Survey Gets Info from Customers, Fast" from Small Business Information (referred to herein as reference C)

45. As per claims 6, 8, and 9, Klingman teaches a method wherein the review request is transmitted to a reviewing customer electronically and wherein the review request is presented on a Web page (See column 10, lines 11-12, 40-41 and 66-67, and column 7, lines 1 and 4-15, wherein the review request is presented on a web page). However, Klingman does not expressly

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disclose providing this request via e-mail, accessing the review form using the request message, including a hyperlink in the request message to the review form.

InstantSurvey teaches a method wherein:

i. As per claim 6, the review request is provided via e-mail (See reference B, page 2, which discloses sending the survey to respondents via personalized email).

iii. As per claim 8, the customer accesses a review form using the review request message (See reference B, page 2, and reference A, page 2, wherein the link to the review is emailed to the customer. The customer uses this link to access the survey page).

iv. As per claim 9, the review request includes a hyperlink to a review form (See reference B, page 2, and reference A, page 2, wherein the review request includes a link to the review form).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the review request to the customer using the techniques disclosed in claims 6 and 8-9 because these functionalities would increase the electronic surveying capabilities of the system, thus allowing the system to more efficiently attain the reviews of the customers. Furthermore, surveying using these techniques was old and well known at the time of the invention.

46. As per claim 12, Klingman teaches a method comprising:

receiving a customer address (See column 14, lines 41-46); and

electronically transmitting a customer review to said customer (See column 11, lines 4-20, which describes electronically transmitting a review to a customer).

However, Klingman does not expressly disclose receiving an e-mail address provided by the customer and forwarding the customer review to this e-mail address.

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InstantSurvey teaches a method using an electronic address comprising:

receiving at least one e-mail address provided by the customer (See reference C, page 2, which discloses the customer's email addresses having been received by the surveyor); and forwarding the customer review to the e-mail address (See Reference A, page 2, and Reference B, page 2, wherein the review is sent to the e-mail address of the customer).

It would have been obvious to one of ordinary skill in the art at the time of the invention to send the review to an electronic address because doing so would increase the likelihood of a customer's response by prompting the customer to respond through the arrival of the survey in his/her "inbox". Furthermore, it would have been obvious to receive an e-mail address of the customer and transmit the review electronically because online messaging was old and well at the time of the invention.

47. As per claim 25, Klingman does not expressly disclose a method where the review request is selectively delivered on one of a weekend and a holiday.

InstantSurvey discloses where the review request is delivered electronically and the surveyor can customize the survey and its delivery (See reference A, page 1, where the designer of the survey is able to customize said survey and said survey's delivery. See also reference A, page 2, and reference B, page 2, which disclose managers having the ability to administer their own online surveys).

It would have been obvious to one of ordinary skill in the art at the time of the invention to choose to deliver a review request on a weekend or a holiday because doing so would increase the likelihood of response by the consumer due to the fact the consumer has free time on weekends and holidays to pay bills, read newspapers, reply to surveys, run errands, etc.

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Furthermore, it is old and well known that unlike mail, the time frame for delivery of email can be distinctly chosen.

48. As per claim 38, Klingman teaches a method wherein the review request is presented to a customer on a Web Page (See column 10, lines 11-12, 40-41 and 66-67, and column 7, lines 1 and 4-15, wherein the review request is presented on a web page).

However, Klingman does not expressly disclose providing the review request via e-mail.

InstantSurvey teaches a method wherein the review request is provided via email (See reference A, page 2, and reference B, page 2, which discloses sending the review request to respondents via personalized e-mail).

It would have been obvious to one of ordinary skill in the art at the time of the invention to also transmit the review request electronically via e-mail because this functionality would increase the electronic surveying capabilities of the system, thus allowing the system to more efficiently attain the reviews of the customers.

49. Claims 10, 22, 23, 28, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman (U.S. 5,950,172) in view of Chislenko (U.S. 6,092,049).

50. As per claim 10, Klingman does not expressly disclose using a collaborative filter which, based at least in part on the customer's review, provides the customer personalized recommendations for items similar to the reviewed item.

Chislenko et al. teaches a method further comprising using a collaborative filter which, based at least in part on the customer's review, provides the customer personalized recommendations for items similar to the reviewed item (See abstract, column 2, lines 11-42, and

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column 3, 38-42, and column 4, lines 25-37, which disclose collaborative filtering and providing the customer personalized recommendations based on his/her rating profile).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a previous product review of a customer to provide said customer with recommendations for future purchases because using prior knowledge of the customer would enhance recommendation accuracy and increase sales for the recommending company (See abstract).

51. As per claim 22, Klingman does not expressly disclose a method where the received review is used to recommend other items to the customer.

Chislenko et al. teaches a method where the received review is used to recommend other items to the customer (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which disclose providing the customer personalized recommendations based on his/her rating profile which contains information about the previously rated items of said customer).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a previous product review of a customer to provide said customer with recommendations for future purchases because using prior knowledge of the customer would enhance recommendation accuracy and increase sales for the recommending company (See abstract).

52. As per claim 23, Klingman does not expressly teach a method where the received review is used to recommend the item to other customers.

Chislenko et al. teaches a method where the received review is used to recommend the item to other customers (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which disclose storing previous rating information about purchased/used items in the

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profiles of users and storing rating information in the profile of a specific item, and then using these profiles to recommend the item to other customers who have not yet purchased the specific item).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a rating profiles of items and the previous items reviewed by a customer to provide said customer with recommendations for future purchases because using prior knowledge of the customer would enhance recommendation accuracy and increase sales for the recommending company (See abstract).

53. As per claim 28, Klingman teaches allowing a user to rate a previously purchased item and allowing the user to choose whether or not he/she wants to rate said item (See column 4, lines 20-24 and 55-62, column 6, lines 7-10 and 35-39, column 8, lines 19-25, column 10, lines 55-58, and column 11, lines 9-20, all of which talk about verifying that the prospective reviewer purchased the item before allowing a score to be entered. The purchaser has the ability to choose to rate the item or not based on the way they feel towards the product. See column 10, lines 41-46).

However, Klingman does not expressly disclose presenting the customer with a list of items and asking the customer if the customer wants to review the listed items.

Chislenko et al. teaches a method further comprising presenting to the customer a list of items purchased by the customer and asking the customer if the customer wants to review one or more of the listed items (See column 4, lines 5-9, which disclose presenting a customer with a list of items and asking the customer to rate the list of items).

It would have been obvious to one of ordinary skill in the art at the time of the invention to present the customer with a list of items purchased and ask the customer to review one or more of the items because it increases the flexibility of the system and also makes the system more user friendly. When a consumer has purchased more than one product in any given time period, this functionality would remind a consumer about which multiple items were purchased as well as allow them to choose between the items purchased and pick which ones he/she feels strongly about.

54. As per claim 39, Klingman does not expressly disclose the review being used to generate a customer profile.

Chislenko et al. teaches a method further comprising using the review is used to generate a customer profile (See abstract, column 2, lines 11-42, and column 3, 38-42, and column 4, lines 25-37, which discloses storing information about item reviews in the profile of the customer and providing the customer personalized recommendations based on his/her rating profile).

It would have been obvious to one of ordinary skill in the art at the time of the invention to generate a use a review to generate a profile of a customer because using prior knowledge about a customer would allow for more accurate estimations of the review time needed by said customer and there propensity to respond to a review request.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jacobi et al. (U.S. 6,064,980) discloses collaborative filtering and the rating of books.

Linden et al. (U.S. 6,266,649) discloses collaborative filtering and the rating of books.

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Sheena et al. (U.S. 6,049,777) teaches recommending items to users based on information stored about the item and the users.

Sheff ("Mr. Satisfaction") discloses the surveys of J.D. Power and Associates and explains how they are sent after an inferred/estimated amount of time. This amount of time reflects the usage that occurs in said amount of time.

Hof ("Technology, Technology, Technology") discloses the functionality of collaborative filtering.

Labounty ("Perception predominates") talks about determining timeframes to send follow-up surveys.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

bvd
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